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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,509	09/29/2006	Udo Heselhaus	KAR0114PCTUS	1070
62124 7590 04/25/2008 QUINN LAW GROUP, PLLC 39555 ORCHARD HILL PLACE SUITE # 520 NOVI, MI 48375				
EXAMINER HERNANDEZ, MICHAEL				
ART UNIT		PAPER NUMBER		
3612				
MAIL DATE		DELIVERY MODE		
04/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,509

Applicant(s)

HESELHAUS, UDO

Examiner

MIKE HERNANDEZ

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. **The drawings are objected to** under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drive devices of claims 7 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first and second paragraphs of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 4 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the side bracket". There is insufficient antecedent basis for this limitation in the claim.

4. **Claim 7 is rejected** under 35 U.S.C. 112, first and second paragraph, for not being enabling with respect to the separate drives. It is unclear what the separate drive devices refer to, and how known drive devices (such as hydraulic actuators) would be used to control the convertible top through the at least one bracket.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1 through 11 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,708,389 to Maebayashi et al.

Regarding claim 1, Maebayashi et al. discloses (Fig 4C) a top for a convertible vehicle with a flexible roof panel (15), which is attached to an arrangement of convertible-top rods (13) and, in its rear area, to an attachment device (61,62) of the

vehicle body (56), in which a clamping device (32), acting on the flexible roof panel in the region of its attachment to the vehicle body in the closed state of the convertible top, is provided, said clamping device being designed with at least one bracket that forces the flexible roof panel in the closed state of the convertible top against an auto-body closure seal (63), characterized in that the at least one bracket is pivotable with its rearward end around an articulation (32a) attached to the vehicle body.

As to claim 2, Maebayashi et al. discloses (Fig 2B) the clamping device has a side bracket (32) assigned to each side of the vehicle.

As to claim 3, Maebayashi et al. discloses (Fig 5) a side bracket is movable in such a way between a first position in the stored state of the convertible top and a second position that tightens the flexible roof panel in the closed state of the convertible top, so that the bracket is pivoted upward with its end on the front side of the vehicle against the auto-body closure seal.

As to claim 4, Maebayashi et al. discloses a side bracket is arranged essentially in the longitudinal direction of the vehicle and can be pivoted around a pivot point attached to its rearward end and forming an articulation.

As to claim 5, Maebayashi et al. discloses the side bracket in the opened state of convertible top is arranged along the floor panel (59). Although not shown, when the bracket (32) is lowered, it would lie essentially at the height of the attachment device (61,62) of the flexible roof panel and at a spacing from it.

As to claim 6, Maebayashi et al. discloses the at least one bracket is designed as an at least roughly U-shaped bracket extending essentially over the width of the vehicle.

As to claim 7 and 8, it is common knowledge for convertible tops to have drive devices (one or more) that are connected to the convertible top linkages.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

As to claim 9, Maebayashi et al. discloses the at least one bracket is attached to a main convertible-top support (9).

As to claim 10, Maebayashi et al. discloses (Fig 4C) the attachment device of the vehicle body has a clamping profile for holding the flexible roof panel.

As to claim 11, Maebayashi et al. shows (Fig 4C) the attachment device of the vehicle body has an at least roughly U-shaped clip (the loop that passes through the bolt 62) essentially spanning the width of the vehicle, to which the flexible roof panel is firmly connected.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The attached references disclose similar flexible convertible tops having various sealing mechanisms. The Mandl et al. reference specifically discloses a linkage structure having similar features to the present application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MIKE HERNANDEZ whose telephone number is (571)272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612

/MIKE HERNANDEZ/
Examiner, Art Unit 3612